

ARKANSAS SUPREME COURT

No. 06-933

NOT DESIGNATED FOR PUBLICATION

Opinion Delivered October 12, 2006

JAMES R. MUNSON, JR.

Appellant

v.

ARKANSAS DEPARTMENT OF
CORRECTION SEX OFFENDER
SCREENING & RISK ASSESSMENT

Appellee

PRO SE MOTIONS FOR ACCESS TO
SEALED RECORD, FOR EXTENSION
OF TIME TO FILE BRIEF AND FOR
APPOINTMENT OF COUNSEL
[CIRCUIT COURT OF PULASKI
COUNTY, CV 2005-9927, HON.
WILLARD PROCTOR, JR., JUDGE]

MOTION FOR ACCESS TO SEALED
RECORD GRANTED; MOTION FOR
EXTENSION OF TIME TO FILE BRIEF
GRANTED; MOTION FOR
APPOINTMENT OF COUNSEL
DENIED

PER CURIAM

In 1996, James R. Munson, Jr., was convicted by a jury of first-degree violation of a minor and was sentenced to 180 months' imprisonment. We affirmed. *Munson v. State*, 331 Ark. 41, 959 S.W.2d 391 (1998). Subsequently, appellant timely filed in the trial court a *pro se* petition for postconviction relief pursuant to Ark. R. Crim. P. 37.1. The trial court denied the petition and this court affirmed. *Munson v. State*, CR 99-824 (Ark. May 3, 2001) (*per curiam*).

In 2005, appellant filed in Pulaski County Circuit Court a *pro se* petition for judicial review of a sex offender risk assessment performed by appellee in 2003. Therein, appellant maintained that the act under which he was assessed does not apply to his conviction and that application of the act was tantamount to an *ex post facto* law. Granting the State's motion to dismiss, the circuit court

ruled appellant's petition was untimely; appellant appeals that ruling. Now before us are appellant's *pro se* motions for (1) access to the sealed record, (2) an extension of time to file the brief and (3) appointment of counsel.

Regarding appellant's first point, the circuit court has previously ordered that the records be filed under seal to protect the confidentiality of the materials related to the assessment, but on appeal, appellant requests access to those records. Because access to the records is necessary to prepare the parties' briefs on appeal, we order that appellant and the State be provided access to the sealed records, but each party shall immediately re-seal the record upon completing and filing briefs. To protect appellant's privacy, we also direct both parties to submit their briefs, abstracts and addendum to this court under seal. As for appellant's second request, we grant appellant's motion for extension of time to file his brief and direct the clerk to set a new briefing schedule.

We next address appellant's request for appointment of counsel and point out that there is no absolute right to appointment of counsel in civil matters. *See* *Mixon v. State*, 318 Ark. 762, 887 S.W.2d 307 (1994) (*per curiam*); *Virgin v. Lockhart*, 288 Ark. 92, 702 S.W.2d 9 (1986) (*per curiam*). Nevertheless, this court has held that if an appellant makes a substantial showing that he is entitled to relief in a civil action and that he cannot proceed without counsel, we will appoint counsel. *See* *Howard v. Lockhart*, 300 Ark. 144, 777 S.W.2d 223 (1989) (*per curiam*). Here, appellant has failed to make a substantial showing. Accordingly, we deny appellant's motion for appointed counsel.

Motion for access to sealed record granted; motion for extension of time to file brief granted; motion for appointment of counsel denied.